

1 foot like that. If I wear sneaker I have
2 to get it open just so I had to put it
3 there, the -- the feet through and that's
4 it. Because I can't bend to -- to tie
5 my --

6 Q. Let me ask you some questions:
7 Prior to the surgery for your lipoma were
8 you able to dress yourself?

9 A. To dress? Yes. Too difficultly
10 because I am overweight, but...

11 Q. Okay. How about after your lipoma
12 surgery? Were you able to dress yourself?

13 A. These are personal questions. Why
14 are you asking me that question?

15 Q. I'm just asking after you --

16 A. Yes.

17 Q. -- had your lipoma surgery were you
18 able to dress yourself?

19 A. Yes. I was disabled at the time
20 you fired me. You see why you want to
21 know? Yes. I was unable. You got a
22 letter that said I was unable. That's it.
23 This is what it counts. You don't know
24 what happened before, what happened after.



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1 After -- What happened after was my
2 business because you fired me. It's not
3 worth your business. It was mine. What?

4 Q. Ms. Benitez?

5 A. You send me in May to dress me
6 you. You send me in May to dress me you.
7 Send me in May to work. No, so you don't
8 -- so you don't care.

9 Q. Ms. Benitez, after you had the
10 lipoma surgery were you able to dress
11 yourself?

12 A. Um-hum.

13 Q. After you had the surgery were you
14 able to dress yourself?

15 A. It's the same question? Again,
16 it's the same that I'm gonna answer you --
17 answer the same. It the same I'm going to
18 answer you. You send me in May to that.
19 You don't realize before if I was able to
20 dress myself. You don't. You don't care.

21 I die the next day, you don't care.
22 You don't care if I die in the same
23 surgery. You don't care so why you care
24 now? Because you want to get all this



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1 stuff. It's just that. So don't ask me
2 the question the same time again, again.
3 I'm going to answer the same again, again.

4 Q. Ms. Benitez, I have the right to
5 ask you some questions.

6 A. Yeah. I got the right to -- to
7 answer the question and I have the right
8 to ask the question to you and you didn't
9 answer me. So why I'm supposed to answer
10 your only question that you ask? And you
11 never answer it -- the first question, the
12 main question, just one question that I
13 ask since all these problems start. Why do
14 you cancel my insurance when I was unable
15 to go to work, when you knew that I was
16 unable to go to work? When you knew -- if
17 you don't knew you're supposed to -- I was
18 supposed to go to work the next day. If
19 you didn't know I was supposed to -- why
20 you cancel then my insurance? Although
21 Sodexho Marriott cancel the American
22 insurance that people are supposed to work
23 the next day? Because you knew. You do
24 not ask and now you want to try to get



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1 out. You go to a restaurant and ask for a
2 caviar and don't want to pay and put a
3 hurt on the caviar. That's it. This is
4 what you trying to do.

5 Q. Ms. Benitez, I'm gonna ask -- I'm
6 gonna just state if you won't answer my
7 questions I'm going to stop right now.
8 We'll ask the judge if she can come in
9 because these questions relate to your
10 claims and I believe I'm entitled to ask
11 these questions. My question is a
12 relatively simple question, I believe, is:
13 Were you able to dress yourself after you
14 had your lipoma surgery? Are you
15 willing --

16 A. No.

17 Q. -- to answer that question?

18 A. No. No, I wasn't.

19 Q. You weren't able to dress yourself?

20 A. No, I wasn't. My daughter -- I
21 got my daughter to do that. At home I
22 didn't do anything. Just eating, getting
23 depressed, sleeping, taking pills. Just
24 like that.



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1 Q. How long were you unable to dress
2 yourself after your lipoma surgery?

3 A. I got everything so the pain go
4 away. And after that until, you cancel --
5 you terminated me wrongfully, I try to get
6 another job in a different way because I
7 knew that I can't have it no more as a
8 cashier. So I have to go in like in
9 office or something like that. I get a
10 job there to get a different training to
11 get a job. They said no. Oh, my God.
12 I say okay.

13 Q. Ms. Benitez, looking back --

14 A. Now this is putting me down, really
15 down.

16 Q. Ms. Benitez, looking back at
17 Exhibit Number 7, is it your understanding
18 you were fully capable of working on -- as
19 of February 15, 2000?

20 A. Yes.

21 Q. Okay. And were you able to dress
22 yourself on February 15 of 2000?

23 A. No.

24 Q. You couldn't dress yourself on that



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1 day?

2 A. No.

3 Q. How were you going to be able to
4 work if you couldn't dress yourself?

5 A. I wasn't able to work. I got my
6 daughter. They gonna help me to do
7 whatever I had to do, I did it. I went
8 so many days sick to work so why so many
9 day more? I went so many days sick to
10 work. Why I couldn't get more? Yeah,
11 because they say you could go. You can
12 get help, get help.

13 Q. Why couldn't you dress yourself?

14 A. Hmm?

15 Q. Why couldn't you dress yourself?

16 A. Because I got a pain related with
17 my surgery and the -- this hernia. This
18 is why I -- I couldn't do heavy thing. I
19 think if I got to go to supermarket I got
20 to go to someone. I can't go by myself.

21 Q. Right now you can't go to the
22 supermarket by yourself?

23 A. No, just to get a like a bread,
24 something that is not heavy.



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1 Q. Could you -- Can you go to the
2 supermarket by yourself right now?

3 A. No. I have to get my daughter or
4 my son to push the cart and get the item,
5 something like that. I can't. I can't.

6 Q. Let me ask you this: In regard to
7 your inability to dress, was that because
8 of your lipoma?

9 A. No, because of the hernia.

10 Q. It was because of the hernia, a
11 different back issue?

12 A. Yeah. It's the same back -- it's
13 a different of the surgery.

14 Q. So if you weren't -- if you weren't
15 able to dress yourself because of the
16 hernia is it fair to say that you weren't
17 able to work either?

18 A. Yeah. I could -- because I'm gonna
19 get treatment.

20 Q. Did you get treatment for your
21 hernia?

22 A. You know why I get back? I get
23 back just to get my hernia surgery removed
24 because I to -- I supposed to I got



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1 insurance, I going to get that surgery
2 too. I'm going to be fine. So somebody
3 didn't give me the time to do all that I
4 had to do it. They cancel my insurance.
5 They fire me like a -- dump me like a
6 trash. This is what I feel.

7 Q. Were you able to -- at some point
8 in time your inability to dress, that was
9 related not to your lipoma, that was
10 related to your other back issue, your
11 hernia; is that right?

12 A. Yes. In some way it's right and
13 in some way it wasn't. Because the
14 lipoma, it had to wait a long time to get
15 cured. You can't go back to work. Since
16 I wasn't doing any heavy stuff, yeah.

17 Q. By February 15th, though, you would
18 have been able to go back to work,
19 correct?

20 A. Yeah. Because they got me a long
21 time for a lipoma.

22 Q. But didn't your doctor say that as
23 of February 15 you were capable of going
24 back to work?



91

1 A. Yes. Yeah. I went to work. We
2 have my son so many times, so why not?

3 Q. At any point in time did you ever
4 say to your doctor, Mr. Fernandez, (sic)
5 that you weren't able to go back to work
6 after your lipoma surgery? Did you ever
7 tell him that?

8 A. Why? Why did I have to say it?
9 Because before I do it before. My daughter
10 or my son help me to put my shoes because
11 I leave early in the morning before they
12 go to school. Okay, tie my shoes, do
13 like that because we had to wear --

14 Q. Were you able to put your own pants
15 on after your surgery?

16 A. A big one.

17 Q. Big pants?

18 A. Big pants that I don't have to do
19 like this (demonstrating).

20 Q. But you were able to put it on
21 yourself?

22 A. Just to (demonstrating).

23 Q. Pull it up.

24 A. Pull it up. The -- My son, he put



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1 continue getting pain.

2 Q. How long -- Did you ever go back
3 to the doctor again in regard to the
4 lipoma?

5 A. To this last operation? I told my
6 primary doctor that the person -- the same
7 instance -- is what's wrong because it
8 continue pain in me. And he say oh, I
9 think everything is fine, but I don't know
10 why you continue getting pain so I don't
11 know.

12 Q. Okay. Did you ever have any -- up
13 until December of '05, between January of
14 2000 and December of '05, did you ever
15 have any other surgeries in regard to your
16 lipoma?

17 A. To lipoma? No.

18 Q. Okay.

19 A. I got another surgery but not
20 lipoma.

21 Q. Okay. And if I understand
22 correctly after the surgery you were fully
23 capable of working, correct?

24 A. That's what he said. On 15 I was



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1 supposed to go to work because I got my
2 job. Because I got my job I don't want
3 to lose it even though I wasn't -- I
4 wasn't going to win because I got my job.
5 I want to keep it and because I need it
6 to get the hernia surgery. I got my
7 insurance so I'm not going to leave my job
8 if I got to do an operation. Nobody do
9 that.

10 Q. Okay. And if I understand
11 correctly, as of February 15 of 2000 you
12 believed you were capable of going back to
13 work and working?

14 A. Yes. I want to.

15 Q. Okay, and your doctor, actually in
16 Exhibit 7, gave you clearance to go back
17 to work as of February 15, 2000?

18 A. What?

19 Q. Your doctor that had operated on
20 you gave you clearance to go back to work
21 as of February 15th of 2000, correct?

22 A. No. He told me that I was
23 supposed to go to work on February 15,
24 2000. The last day that I was unable was



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1 February 14, 2000.

2 Q. Okay. And you were relea -- Your
3 understanding you were released to work
4 from Sodexho without any restrictions by
5 your doctor, correct?

6 A. Yes. I did not ask for many
7 things because I wasn't going back to
8 work.

9 Q. Did you ever undergo any
10 physical --

11 A. Because I don't get any pay so --

12 Q. Did you ever have any physical
13 therapy for your lipoma?

14 A. Not for lipoma. For lipoma you
15 don't have to get physical therapy. You
16 have -- supposed to get a physical therapy
17 for hernia -- for this, for -- because of
18 the hernia give you pain. So you have to
19 -- supposed to get physical therapy. And
20 the doctor sent me to physical therapy,
21 believe me.

22 Q. In regard to the lipoma he sent you
23 to surgery?

24 A. Not in regard to the lipoma, the



1 hernia. Because the lipoma was already
2 operated.

3 Q. And the lipoma, to your
4 understanding, had already been taken care
5 of by the doctor, correct?

6 A. Hmm?

7 Q. At that point in time the lipoma
8 had already been taken care of by the
9 doctor by the surgery, correct?

10 A. He took it away. I have to do
11 some proof, something like that. But the
12 pain that was -- the -- me go back to
13 work --

14 Q. Did you ever have any medication
15 prescribed to you after February 14th of
16 2000 in regard to the lipoma?

17 A. No. Just the primary care --

18 Q. Okay.

19 A. -- doctor. Dr. Mary Pasinski, the
20 one, the neurologist that I see for the
21 hernia -- this hernia, something like
22 that. She was a -- give a painkiller.
23 It was Celebrex, something like that. I
24 think. I don't know.



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1 Q. When did you first hurt your back?

2 A. Huh?

3 Q. When did your issues with your back
4 start?

5 A. After Sodexho Marriott made me do
6 heavy- duty thing. After they merge they
7 change everybody job duty, that include
8 me. After they merge they change, the job
9 -- what I was supposed to do the job.

10 Q. Okay. Did you ever have back
11 problems before that happened?

12 A. Before that happened? I got a
13 pain. When you get car accident but they
14 do me MRIs, I didn't get nothing.

15 Q. Okay. So you had a car accident
16 before --

17 A. Yes.

18 Q. -- working for Sodexho?

19 A. Yes.

20 Q. How many car accidents did you have
21 before working at Sodexho?

22 A. I got -- before, just one. After
23 I got some more. But before, just one
24 and they gave me -- do me MRIs and



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1 everything was okay. Everything was okay.

2 I got no problem with that.

3 Q. Okay.

4 MR. MARTIN: All right. I
5 think it's been 45 more minutes. Let's
6 take another 10-minute break.

7 (Off the record at 12:00
8 p.m.)

9 (On the record at 12:04
10 p.m.)

11 MR. MARTIN: We'll take a
12 break at ten of 12.

13 MS. BENITEZ: Hmm?

14 MR. MARTIN: 45 minutes.
15 Ten of 12?

16 MS. BENITEZ: Huh?

17 MR. MARTIN: I think 45
18 minutes from right now is ten of 12.

19 MS. BENITEZ: No. Let's
20 take a 12:30.

21 MR. MARTIN: That's 25
22 minutes from now. Do you want to take a
23 break 25 minutes from now?

24 MS. BENITEZ: Yeah. Because



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1 I didn't take this one so you want to say
2 you want it.

3 MR. MARTIN: That's fine.

4 MS. BENITEZ: So you're
5 going to take two breaks.

6 BY MR. MARTIN:

7 Q. You had told Sodexho about your
8 issue with the lipoma. That's what your
9 position is?

10 A. No. I didn't say -- I say my back
11 surgery. I say back surgery. I didn't
12 specify what it was going to be.

13 Q. Okay.

14 A. I said just back surgery. This is
15 why you don't understand why you don't
16 mean.

17 Q. Okay. So that's all that you told
18 Sodexho in regard to your issue was that
19 you needed back surgery?

20 A. Yes, the back surgery. They don't
21 have to know what's the lipoma. Just I
22 needed my time off. I don't have to be so
23 specific. They don't know my -- prying to
24 know, okay, I'm going to get it, this and



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1 this, so specific. Just you need your
2 time off. You just had to tell.

3 Q. Okay. So prior to January 27th --

4 A. Well, they knew.

5 Q. Ms. Benitez, let me ask you a
6 question.

7 A. Okay.

8 Q. Prior to January 27, 2000 the only
9 issue in regard to your back that you had
10 spoken with Sodexho was that you needed
11 back surgery?

12 A. Yeah. The time off for it was
13 surgery -- for a surgery.

14 MR. MARTIN: Let's mark this
15 as the next one, if you would?

16 (Exhibit-8, January 21, 2000
17 Progress Notes, marked for identification.)

18 BY MR. MARTIN:

19 Q. Ms. Benitez, were you able to --
20 you came to your deposition today. Before
21 you came to the deposition did you dress
22 yourself today?

23 A. My son help me.

24 Q. Your son helped you out. What did



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1 Q. You didn't know you had any hernia
2 or anything involving your lower back
3 until you went back and saw a doctor on
4 February 11, 2000; is that right?

5 A. No, I got it before. Because they
6 gave me a report.

7 Q. They gave you a report?

8 A. Yeah. I asked for the report when
9 I got it.

10 Q. Okay. But you never discussed --

11 A. I think I got it.

12 Q. You never discussed anything with
13 Sodexho, any issue regarding a hernia
14 prior to being terminated, correct?

15 A. No. Because I was supposed to get
16 it after they got this -- the lipoma I
17 supposed to get it -- this.

18 Q. Okay.

19 A. But they don't got a time -- I
20 don't get a time. They terminated me
21 three day after I got this report that I
22 got lipoma, hernia disc in L5 and L4.

23 Q. Okay. At the bottom of this last
24 paragraph it refers to, "conservative



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1 treatment was recommended with physical
2 therapy." Do you see that?

3 A. Yes. I went -- they refer me to
4 physical therapy.

5 Q. Did the --

6 A. I didn't get any.

7 Q. You didn't get any physical
8 therapy?

9 A. Yeah. You know why? Because every
10 time that I went to the physical therapy
11 always was an excuse. The lady was
12 supposed to give me the therapy, guy in
13 emergency was late. Always was an excuse.
14 One day I went, I wait -- I wait so long
15 for the therapy that I take all my paper
16 -- all my paper back after I check in, I
17 was waiting for the therapy. I was tired,
18 like a half hour waiting for her. She'd
19 got another appointment; she got -- every
20 time an excuse. I took all my paper and
21 went home. I had enough. The therapy,
22 this, all the paper I got at home. Gosh.

23 Q. Did you ever actually have physical
24 therapy for your lower back?



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1 A. No, I didn't get it. I didn't get
2 any insurance. Not nothing.

3 Q. We'll mark that next one. After
4 you saw the doctor, February 11, 2001 --
5 I'm sorry, February 11, 2000, did you get
6 in a car accident?

7 A. Yes, I do.

8 Q. When did you get in a car accident?

9 A. I got in a car accident 5 -- in
10 more -- 5.

11 Q. I think it's May?

12 A. 5/25/2000.

13 Q. Okay.

14 A. I think the 25 is behind me. On
15 25 they cancel my insurance. On 25 I got
16 car accident.

17 MR. MARTIN: Let's mark that
18 as the next one, if you would? Thank
19 you.

20 (Exhibit-11, May 25, 2005
21 Emergency Department Record, marked for
22 identification.)

23 BY MR. MARTIN:

24 Q. Okay, Ms. Benitez. I'm going to



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1 the Celebrex did the -- did it help the
2 pain?

3 A. In some way but they had to take
4 me out for the Celebrex. I don't know
5 why they said that they're going to give
6 me more di -- help so...

7 Q. Did you ever see a chiropractor in
8 regard to the -- any issues you had with
9 your back?

10 A. Huh?

11 Q. Did you ever see a chiropractor
12 with regard to issues you had with your
13 back?

14 A. Yes. Every time I had to, yes. I
15 do. Because you don't know what you're
16 going to get it for.

17 Q. Okay. Did you get in another
18 accident --

19 A. On the 14th.

20 Q. -- after May of 2000?

21 A. Yes.

22 Q. When did that happen?

23 A. It was 10/14/2000. Yeah. After
24 that. Was in the same year. My life --



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1 A. Yeah.

2 Q. Okay.

3 A. It says no disability.

4 Q. Is that your recollection, that as
5 of December 21, 2000 you had been
6 discharged from your care with Mr. or Mrs.
7 Smith -- Swift -- I'm sorry, and that at
8 that point in time they had indicated you
9 didn't have any disability?

10 A. Any -- any that what they know
11 because all they give me was physical
12 therapy. They are not doctor. But to
13 say I got no disability, they're not
14 doctor. They are therapy.

15 Q. Okay.

16 A. They are not doctor. Doctors say
17 that you got disability or not because
18 they're a doctor. They're chiropractic.

19 Q. Okay. At that point in time was
20 it your understanding that you had been
21 discharged from your chiropractor --

22 A. Um-hum.

23 Q. -- because they thought your
24 problem had been resolved?



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1 A. Yeah. Because I was feeling
2 better, so...

3 Q. Okay.

4 MR. MARTIN: Let's mark that
5 as the next one, if you would?

6 (Exhibit-14, January 8, 2001
7 Final Report, marked for identification.)

8 BY MR. MARTIN:

9 Q. Ms. Benitez, I'll show you a
10 document marked as Benitez Exhibit Number
11 14 and ask you to look at that, if you
12 would?

13 A. Don't ask me about the doctor. You
14 have to ask them. Ask them. Don't ask
15 me about anything. Just ask them.

16 Q. I'm asking you to --

17 A. No. Don't ask me because I'm not
18 a doctor. I can't tell you anything.

19 Q. Ms. Benitez --

20 A. Just I can't tell you if I went to
21 an appointment, if I got an appointment.
22 Don't ask me a question about what another
23 person write. Ask them.

24 Q. Ms. Benitez --



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1 Q. After --

2 A. So --

3 Q. After you were discharged from the
4 Swift Chiropractic Care in October -- I'm
5 sorry -- in January of 2001 until you had
6 to see Dr. Zelano did you not receive any
7 chiropractic care in that time period?

8 A. No. No.

9 Q. Okay. And that's because the back
10 issue that --

11 A. No. It's not why because it was
12 feeling -- feeling well. That I wasn't
13 feeling so bad that it was, but it wasn't
14 feeling right too.

15 Q. Okay.

16 A. Because otherwise I have to go
17 continue going until today. Because all
18 the time I got pain. Because I got the
19 hernia disc plus I got a kidney problem
20 that this produce pain, pain.

21 Q. Okay.

22 A. Gosh.

23 Q. And other than seeing a
24 chiropractor, have you ever seen anyone,



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1 any medical provider for any hernia
2 problem?

3 A. No, because I -- the state doesn't
4 pay for surgery. Why do I have to go to
5 wait? Why do I have to go? To know that
6 I got it? I know that I got it. So
7 medical -- the state medical instead it
8 doesn't pay for any operation. So why I
9 have to -- for what I going to get it?
10 To get painkiller? I can get it from my
11 primary.

12 Q. And did Mr. Zelano, Dr. Zelano,
13 release you from any partial disability as
14 of September 9th of 2005?

15 A. Disability for car accident?

16 Q. Yes.

17 A. I don't know.

18 Q. Okay. I'm going to have you look
19 at Exhibit Number 17, and if you see on
20 the third page of Mr. Zelano's statement
21 that there's a reference of disability.
22 Do you see that reference?

23 A. This is -- this is disability.
24 This is 2005 we're talking about what



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1 They can't because they're job, bone
2 adjusters. When you get accident all your
3 body move so they got to adjust. They
4 body, the people, not doctor.

5 Q. From January 27, 2000, when you had
6 your surgery for the lipoma to the
7 present, have you been able to work?

8 A. What?

9 Q. From January 27, 2000 when you had
10 your surgery for lipoma to the present
11 have you been able to work?

12 A. Yes. If I got a -- if -- so if
13 somebody doesn't problems, doesn't
14 terminate me illegally --

15 (Interruption.)

16 A. If Sodexho Marriott doesn't
17 wrongly, illegally, unlawful terminated me.
18 This is why I ask you an interpreter.
19 You ask no interpret. I ask for
20 interpreter because you want the truth you
21 going to get the truth because of my
22 language. But put it down because Sodexho
23 Marriott illegally -- you don't understand
24 illegally? Terminated me, discriminated me.



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1 That is the point.

2 Q. And from the time of your surgery,
3 January 27, 2000 to the present have you
4 been able to walk?

5 A. You not see me? With difficulty,
6 yes. I got difficulties to walk. But
7 I'm not in wheelchair. I don't want that.
8 No way.

9 Q. But during that time period you've
10 been able to walk, correct?

11 A. When?

12 Q. From January 27, 2000 to the
13 present.

14 A. You see me walking. You don't see
15 me wheelchair. I have difficulty, yes.
16 But I walk. I walk.

17 Q. Okay. From January 27, 2000 to the
18 present have you been able to see?

19 A. Yeah. With my glasses, yes.

20 Q. Okay. And from January 27, 2000 to
21 the present have you been able to hear?

22 A. Yes.

23 Q. Okay. And from January 27, 2000 to
24 the present have you been able to speak?



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1 A. Yes.

2 Q. Okay. From January 27, 2000 to the
3 present have you been able to breathe?

4 A. Yes. With difficulty, with my
5 medicine. I take like a three medicine
6 for breathing.

7 Q. Okay.

8 A. Diflonax, Ventolin, I take Flobane,
9 and I take this (indicating) for
10 breathing, just for breathing for medicine.

11 Q. So you take medicine for your
12 breathing?

13 A. Yes.

14 Q. And with the medicine you're fully
15 capable of breathing?

16 A. In some way. Sometime, you know.

17 Q. Have you ever had to be hooked up
18 to a respirator because you couldn't
19 breathe?

20 A. Yes. Like a three, four times in
21 emergency, yeah.

22 Q. When did that happen?

23 A. You say you got my record from --
24 from Cambridge? You better get it in



1 there.

2 Q. When did you ever have to be hooked
3 up to a respirator?

4 A. Hmm?

5 Q. When did you ever have to be hooked
6 up to a respirator?

7 A. What is that? I don't understand
8 what do you mean.

9 Q. Did you ever have to have anything
10 to --

11 A. Asthma attack? You mean asthma
12 attack?

13 Q. -- assist you in breathing?

14 A. I don't understand what you mean.

15 Q. Sure. Let me --

16 A. If you tell me asthma attack I
17 understand. That what is?

18 Q. What happens -- When you have an
19 asthma attack did you have to take your
20 medicine?

21 A. Yes. But sometimes it doesn't
22 work. I have to go to the emergency.
23 Sometimes it doesn't work.

24 Q. Okay. But with your medicine



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1 you're typically able to breathe?

2 A. Yeah, in some way.

3 Q. Okay. From January 27, 2000 has
4 anything affected your ability to learn?

5 A. To learn? The stress, all the
6 stress that you produce me this -- this
7 procedure, yes.

8 Q. Anything else affect your ability
9 to learn in that time period?

10 A. Yes. And some memory problem.

11 Q. Have you ever been diagnosed with
12 any memory problem?

13 A. No, I haven't go to -- if I had to
14 go to the doctor I had to be every day.

15 Q. From January 27, 2000 to the
16 present have you been able to care for
17 yourself?

18 A. Not full time.

19 Q. Okay. What haven't you been able
20 to do to care for yourself?

21 A. Hmm?

22 Q. What have you not been able to do
23 in that time period?

24 A. I don't cook. I don't clean. I



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1 don't do nothing. Just eat. Eat. Eat
2 and sleep and take medicine. Medicine for
3 sleep, medicine for asthma, medicine for
4 kidney and a medicine for blood pressure
5 and a medicine for depression. Medicine
6 for everything. Medicine to sleep. God.

7 Q. But your -- if I understand
8 correctly, from January 27, 2000 to the
9 present, you've been able to feed
10 yourself, correct?

11 A. Yeah. I eat.

12 Q. Yeah. And from January 27, 2000 to
13 the present you've been able to bathe
14 yourself?

15 A. To what?

16 Q. Bathe yourself, wash yourself?

17 A. Yeah. Just few days after the
18 surgery I didn't. But I can wash my...

19 Q. And you told me that sometimes you
20 have trouble putting on certain types of
21 shoes. Other than that, from January 27,
22 2000 to the present have you been able to
23 dress yourself?

24 A. In some way. I have to wear big



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1 clothes and that's it. I can't bend. If
2 I have to bend, something like that, if I
3 got a pain I have to get help. That's
4 it.

5 Q. And if you have to go to the
6 grocery store you're able to go to the
7 grocery store to get certain things?

8 A. No. Not for me. Not for me. I
9 have to get my son every time that I have
10 to go -- if they don't go -- just like
11 I'm going to get it like a bag of
12 potatoes, cheap, something that is light
13 or bread, something that is not for
14 shopping, just for picking up.

15 Q. Okay. And then I'm just going to
16 ask you to, again, the different time
17 period. Prior to January 27, 2000 when
18 you had the surgery, prior to that time
19 period were you able to walk?

20 A. What?

21 Q. Prior to January 27th of 2000, when
22 you had your surgery, were you able to
23 walk?

24 A. You don't see me wheelchair. I



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1 walk with the feet. I can walk a long
2 distance on foot, so...

3 Q. Okay. And prior to January 27,
4 2000 did you have anything that affected
5 your ability to see?

6 A. You keeping asking me every
7 question every and every time. You don't
8 got no more question? You don't got no
9 more question? No more question?

10 Q. I'm asking you for --

11 A. No. No. No. I'm asking -- I'm
12 asking you a question, a whole questions
13 in this start. So don't rush me to
14 answer the question that you want I have
15 answered. I ask you one question since
16 this is start, why do you cancel my
17 medical insurance. Just that. You never
18 answer me. You never send me the document
19 that I ask you. I asked for your -- a
20 position you name it. No. I just want to
21 impeach me just that. You don't want the
22 truth. The truth -- you know what is the
23 truth. This is how we say in this
24 (indicating). In this when I say they that



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1 2000 that your middle back injuries had
2 resolved to approximately 95 percent of
3 the preinjury state?

4 A. I don't know. But I don't remember
5 nothing of them. It's a long time. You
6 got to ask them.

7 Q. Did you -- at this time in or
8 about December 2000 or January of 2001 did
9 you have an attorney working for you by
10 the name of Daniel Doucette?

11 A. Yes. Yes. He was the one that
12 doing -- you know this question -- I can
13 answer you immediately. Because I know.
14 But whatever I don't I can't.

15 JUDGE DEIN: Okay. So if
16 you just answer what you know then she
17 doesn't have to write down all the things
18 you don't know. Okay?

19 MS. BENITEZ: Okay.

20 BY MR. MARTIN:

21 Q. We've previously discussed that you
22 had surgery on January 27th of 2000. My
23 question is: Prior to that date, prior to
24 that surgery on January 27, 2000, did you



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1 have any conditions that affected your
2 ability to see?

3 A. Yes. I was wearing glasses every
4 time. Yes, I do.

5 Q. When you --

6 A. Yes, when I got a breathing
7 problem, yes, I do. I'm taking like a
8 five medications for breathing problem.
9 I'm taking medicine for blood pressure,
10 for kidney, for pain killer for the
11 hernia. Yes, I'm taking medication.
12 That's what you want to know? Yes, I do.

13 JUDGE DEIN: Try not to
14 guess what he's going to ask you. Okay?
15 Just answer the one question at a time.
16 It really -- I promise you it goes much
17 faster.

18 MS. BENITEZ: It's because
19 it was supposed to be from 10 to 1.

20 JUDGE DEIN: Okay.

21 MS. BENITEZ: It say was
22 just -- Let me talk.

23 JUDGE DEIN: No. Because
24 when you keep talking longer then it just



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1 takes longer.

2 MS. BENITEZ: Supposed to be
3 three or four breaks. I only take two
4 breaks to leave earlier and it's almost 2.
5 I'm right here because he wanted.

6 JUDGE DEIN: Okay.

7 MS. BENITEZ: He wanted --
8 The purpose of this deposition is to
9 impeach. He knows better what happened.
10 He knows this is what you don't answer
11 that -- you suppose -- assume the
12 position. This is why you didn't answer
13 the question why you canceled the
14 insurance. This is why you didn't give me
15 my record -- my personal record. You have
16 nothing wrong with my personal record.
17 Nothing. Nothing. You want to impeach.
18 You don't want any information. You don't
19 want anything. You want to impeach me to
20 make me in contradiction. You say I'm
21 going to ask you those questions that I --

22 JUDGE DEIN: Ms. Benitez.

23 MS. BENITEZ: That I don't
24 know.



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1 JUDGE DEIN: Ms. Benitez,
2 you need to sit down and you need to just
3 answer.

4 MS. BENITEZ: Sometime I
5 have to stand up.

6 JUDGE DEIN: Okay. But you
7 need to stop moving around. How's that?
8 Okay? The only question --

9 MS. BENITEZ: Are you afraid
10 I'm going to hurt you?

11 JUDGE DEIN: No. No. The
12 only question is: Whether or not --
13 you're saying you wore glasses before that
14 surgery, right?

15 MS. BENITEZ: Yes.

16 JUDGE DEIN: Okay. Do you
17 have another question?

18 BY MR. MARTIN:

19 Q. With the glasses, are you capable
20 of seeing?

21 A. With my glasses, yes. But without
22 my glasses nothing. Not even the medicine
23 -- I can't take the medicine without my
24 glasses. No even the -- read the mail



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1 without these glasses. Without glasses,
2 done.

3 Q. Prior to January 27th of 2000 did
4 you have any condition or issue that
5 affected your ability to hear?

6 A. No. I was working.

7 Q. Okay. Prior to January 27th of
8 2000 did you have any issue or condition
9 which affected your ability to speak?

10 A. To breathe?

11 Q. Speak?

12 A. Oh, to speak, no. To breathe, yes.
13 You couldn't ask me that because you don't
14 want to hear that, right?

15 Q. Prior to January 27th of 2000, did
16 you have any condition or issue that
17 affected your ability to breathe?

18 A. Yes.

19 Q. Okay. What was the issue?

20 A. Asthma.

21 Q. Okay. How long prior to January
22 27th of 2000 had you had an issue with
23 asthma?

24 A. I have long time but I didn't want



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1 to take medicine. But after that asthma
2 attack I had to get it.

3 Q. When was the first time you
4 received medicine in regard to an asthma
5 attack?

6 A. Long time ago.

7 Q. With your medicine were you capable
8 of breathing?

9 A. Yes, because when I was working I
10 was using the medication. I was using the
11 medication.

12 Q. And you -- you're still currently
13 using the medication, correct?

14 A. Yes. I've got three medications.
15 This is one of this -- this inhaler. I
16 take Ventolin, Albuterol. This is why I'm
17 getting fat because they've got armour,
18 made me big. And I got stress problems
19 that I eat, eat, eat. That's it.

20 Q. And if I understand correctly, with
21 the medications you are capable of
22 breathing?

23 A. Hmm?

24 Q. With the medications you are



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1 capable of breathing?

2 A. Yes. But without the medication,
3 no.

4 Q. Okay. Prior to January 27th of
5 2000 did you have any issue or condition
6 that affected your ability to learn?

7 A. No.

8 Q. Okay. Prior to January 27, 2000
9 did you have any issue or condition that
10 affected your ability to care for
11 yourself?

12 A. Yes.

13 Q. What issue was that?

14 A. The hernia. I can't go shopping.
15 I can't drive long distance. Sometime
16 when the pain is back, I walk more than a
17 mile, the next day I can't get up. I have
18 to lie down in the bed. I can't do
19 anything at home. My son's sick, you're a
20 different person. You're like a delve
21 (sic). Yes, I am. Really. Really.
22 After that, after what happened to me I am
23 another person. Before I used to get a
24 friend, used to be friendly but now, back



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1 off everybody. Back off. Back off from
2 me.

3 Q. If I understand correctly, when we
4 looked at some records, your hernia issue
5 that you referred to or herniated disc,
6 that was diagnosed in February of 2000,
7 correct?

8 A. No. It wasn't February. It was
9 January 22 before you fire me. Illegally
10 you fire me.

11 Q. Okay. If I understand correctly,
12 prior to January 27, 2000, were you able
13 to feed yourself?

14 A. You asked me that. Yes, I did.

15 Q. Okay. And prior to January 27th of
16 2000 were you able to bathe yourself?

17 A. What is bathe?

18 Q. To clean yourself.

19 A. Yeah. Just the first day after the
20 surgery that I need my daughter help me.
21 When I have to work and I have to get
22 shoes with tie. This is why I'm use
23 these shoes. Not get anybody involved. I
24 put my shoes --



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1 JUDGE DEIN: Okay, so you
2 couldn't tie your shoes?

3 A. Yes. I no have to get -- can you
4 come back and help me, blah, blah, blah,
5 wake up. No.

6 Q. Okay. And prior to January 27,
7 2000 were you able to groom yourself, comb
8 your hair, brush your teeth, wash your
9 face?

10 A. Yes. I was working. I was a
11 person. I was sick but I was a person.
12 I was a person.

13 Q. Prior to --

14 A. Now I'm not a person. I'm nothing.

15 Q. Prior to January 27th of 2000 you
16 were fully capable of working, correct?

17 A. I was working. You fired me. You
18 know I was working.

19 Q. Okay. And when you were working
20 you were able to -- prior to January 27th
21 of 2000 you were able to do the tasks
22 that you were assigned to do?

23 A. What?

24 Q. To do your job. You were capable



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1 of doing your job?

2 A. Yeah, I work.

3 Q. Yes?

4 A. Yes. With restriction. I got two
5 letter that I give you today. I can't do
6 heavy work and they continue doing. I
7 gave them two letters. One in May '98,
8 one in June 10, '99. That the doctor tell
9 them don't make me do heavy work. Even
10 though the job that was supposed to do
11 wasn't heavy, they made me do the heavy
12 work. They made me. They made me. This
13 is why they call me on this, for this --
14 their disciplinary action and they know
15 that this disciplinary action say clearly
16 two time does not include terminating me.
17 So they got intention to terminate me even
18 though -- even though I requested the time
19 for the surgery, even though -- nothing.
20 They got the intention because say right
21 there. It doesn't include terminated.

22 JUDGE DEIN: Okay.

23 MS. BENITEZ: It excludes
24 terminated. It said clearly terminated.



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1 So this is what you wanted, terminated me.

2 Any chance, terminated.

3 JUDGE DEIN: Okay. You've
4 answered the question now.

5 BY MR. MARTIN:

6 Q. And if I understand correctly, in
7 regard to the issue with dressing yourself
8 prior to January 27, 2000 you were capable
9 of dressing yourself; you had an issue of
10 putting on some types of shoes; is that
11 correct?

12 A. Yes. But I was supposed to wear
13 at working. It was one with shoelace.
14 They had to be work that you doesn't slip
15 on the floor. It was a different type of
16 the shoes. It was not a regular shoe.
17 You have to wear your uniform and your
18 shoes and everything that they give you.

19 MR. MARTIN: Ms. Benitez, I
20 do have some additional questions for you.
21 We've agreed to shorten this deposition
22 for the purpose that we discussed
23 previously. I know the Court has indicated
24 that we have the ability to file for



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